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THE
S P E E C H
OF
SIR HUGH PALLISER, BART.
IN A
Committee of the House of Commons,
ON
Monday the 4th of December, 1780.

The following speech was delivered by Sir Hugh Palliser in the House of Commons, Monday the 4th of December, 1780, the day he took his seat in the present Parliament.

The House was in a Committee of Supply, and the many business were the subject under consideration.

The occasion of the speech was a recommendation of the attacks on Administration for appointing Sir Hugh Palliser to the Government of Grenada Hospital; and in a speech from Mr.

For

Lord North told me that he was a great admirer of Sir Hugh Palliser and pointed out the appointment of Sir Hugh Palliser.



Sir Hugh rose immediately after Lord North, and addressed himself to the Chairman of the Committee with the following speech.

It has been no common practice, in public assemblies as well as in private, to deliver speeches, very different from those actually delivered, and with great changes and enlargements; and much may be said in favour of the practice, when there is not any intention to deceive and mislead the reader. But in the following speech, there are few variations or additions.

The following Speech was delivered by Sir Hugh Palliser in the House of Commons, Monday the 4th of December, 1780; the day he took his seat in the present Parliament.

The House was in a Committee of Supply, and the Navy Estimates were the subject under consideration.

The occasion of the Speech was a recommencement of the attacks on Administration, for appointing Sir Hugh Palliser to the Government of Greenwich Hospital; particularly in a Speech from Mr. Fox.

Lord North followed Mr. Fox with a most nervous and spirited justification of the appointment of Sir Hugh Palliser.

Sir Hugh rose immediately after Lord North, and addressed himself to the Chairman of the Committee with the following Speech.

It has been no unfrequent practice, to publish parliamentary as well as other speeches, very different from those actually delivered, and with great changes and enlargements; and much may be said in favour of the practice, when there is not any intention to deceive and mislead the reader. But in the following Speech, there are few variations or additions.

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SIR,

I DID not call the Honourable Gentleman in my
 eye * to order, though he gave me sufficient cause
 for it; because I would not appear afraid to hear any
 thing he might say at any time, or in any place, or on
 any ground on which he might think proper to attack
 me.

Being unaccustomed and unqualified to speak in a
 public assembly, and having now many things to say,
 I must beg the indulgence of the Committee, by allow-
 ing me to have recourse to what I have committed to
 writing.

But I must first apologize to the noble Lord † next
 to me, if, in the course of what I have to say, I should
 repeat part of what his Lordship has already expressed; nor
 having been apprised of the generous support, with which
 his Lordship has now been pleased to honour me.

I am not surprised at the attack now made upon me.
 After such harsh reflections and high menaces, as are
 said to have been uttered concerning me in this House
 whilst I was absent, it was scarce possible, that my ene-
 mies should decline all censure of me when present.

Thus foreseeing, that there would be an attempt to
 raise a new storm against me on my first re-entrance

Mr. Fox

† Lord North

within

within these walls, and through me to excite new convulsions in the State, I am come, in some degree, prepared for resistance; and I earnestly entreat the Committee to grant me a patient hearing, whilst I offer some observations in behalf of the most injured character in the Kingdom.

Notwithstanding the extreme violence of the prejudices against me on the acquittal of Admiral Keppel, and the outrages which followed, I never so yielded to the impressions of adversity, as to be without the hope of finally obtaining justice from the voice of my country. It was this hope, with the consciousness of the rectitude of my conduct and intentions, which sustained my spirits throughout the succeeding unequal conflict: these encouraged me to persevere in the vindication of my honour, at the imminent risque of seeing that and my life sacrificed to the rage of party. Had I been in the least inclined to wave the contest, my enemies affected to be so merciful as to give me a fair opportunity. They strongly expatiated on the cruelty of permitting a trial, which, as they conceived, even on the supposition of innocence, must, from the universality of the prejudices against me amongst my brother Officers, terminate in my conviction and death. They solemnly washed their hands of my blood. They tenderly declared themselves fully satisfied with my present sufferings: nay, to alleviate these, they were so compassionate, that though they proscribed me from the honourable line of my profession, they had no objection to

my having an ample pension for my support in retirement.—Such was the language of my enemies, both in and out of Parliament. But I did not hearken to it. I was neither terrified by their menaces, nor flattered by their pretended kindness.

The event of my trial confirmed me in the expectation, with which I had before consoled myself. My Judges, proving superior to the influence of party and the dread of unmerited unpopularity, discharged their office with a determined impartiality; and the result was a sentence, which I shall ever think most honourable to me. In the introductory part of it, my Judges declared, that *my conduct and behaviour were, in many respects, highly exemplary and meritorious.* Though too, the Court had scrutinized into every part of my conduct, with an almost unexampled strictness, the only omission, which could be suggested, was, that I did not inform the Commander in Chief of the disabled state of the Formidable. But so far was the Court from imputing this to a blameable cause, or from attributing the least ill consequence to it, that they stated it in dubious and reluctant terms, simply pointing it out as a matter of opinion; and having so done, they concluded with an *absolute acquittal.* Indeed, had I conceived, that there was a probability of imputing such an omission to me, I should have been more full in my explanation on this head. I did take notice, that the signal of distress in the Fighting Instructions was not applicable; and that the condi-

tion of the *Formidable* was so apparent, as to make any information from me unnecessary. I also noticed, that I had no frigate by which I could send information: the *Milford*, which was the only frigate of my division, having been taken from me by Mr. Keppel early in the afternoon. But I might have advanced several steps further, to obviate the idea of omission. Till the *Fox* reached me between seven and eight at night, Mr. Keppel's own conduct did not leave me the least room to suppose him ignorant of the *Formidable*'s inability to reach the length of my station in the line; for he not only did not make any enforcing signal to signify his expectation of seeing my division in the line, till thirteen minutes after six, when the signal for coming into his wake was hoisted the second time; but also, on putting out the pendants of several ships of my division at half an hour after six, he did not think fit to make my pendant one of the number; whence I concluded, that he knew my condition, and therefore did not expect me. In respect to afterwards sending information by the *Fox*, if I had thought it necessary, I had not the opportunity; the *Fox* having separated from me before I could finish what I had begun to say to her captain. What other means I could have devised to send an explanation to Mr. Keppel, time enough to answer any purpose, I am still to learn. But all this is not of importance to me. The terms in which the omission is stated, with the acquittal which follows, sufficiently

protect my character, being repugnant to the most remote idea of criminal imputation.

Since my trial, I have patiently waited for the sub-
siding of the public prejudices; and so far as regards
my exculpation from the charges for my conduct
the day of engagement, I have reason to believe, that
the proceedings on my own trial have opened the eyes
of many; who, before they knew what was my Defence,
had been seduced into an injurious opinion of me: and
I trust, that the more thoroughly the grounds, on which
my Judges acted, are examined and understood, the
more convincing the proofs of my innocence will ap-
pear.

But still some unfavourable impressions continue to
operate against me, on account of my accusation of Mr.
Keppel; and for this I have been blamed, even by some
persons of great respect, who were far from being indis-
posed to form an impartial judgment, if they were fur-
nished with the necessary materials.

In this part of the case, my ill-fortune exposes me to
the most embarrassing disadvantages. On the one hand,
there is a sentence acquitting Admiral Keppel, and
declaring my charges *malicious* and ill-founded. But,
on the other hand, the manner in which I was urged
and driven to become an accuser, and the grounds on
which I could have sustained my charges, are not only
ill understood, but in truth have never yet been ex-
plained by myself. The proper time for discussing this

matter

matter was, when Mr. Keppel was on his trial; but then the opportunity was denied to me. The trial being closed, and a judgment of acquittal irrevocably pronounced, it might seem invidious and unbecoming on my part to publish to the world, what I should have offered in support of my charges. Such a measure I have therefore declined hitherto; nor will I be ever induced to adopt it, by any thing less than its being authoritatively called for, or the most apparent impossibility of otherwise resisting the attempts to complete my ruin. But then the difficulty is, how to avoid such an extremity, without surrendering myself a quiet victim to the persecuting spirit of my enemies. The leaders of them have continually been loading my name with reproaches; and though some of them, on many accounts, have a title to much respect, yet even these so forgot all manliness of character as to assail me with the most embittered eloquence in this House, when it was known that I could not be present to defend myself. Now too, that I am present, they know the advantage they derive from my being unendowed with qualifications for a popular assembly; and thence they are encouraged to recommence their attacks; though surely they cannot imagine, that I shall sit still, without at least endeavouring to give a check to any aspersions aimed at me personally.—Under these circumstances, should I continue acquiescing in these public attacks of my character, without any attempt to repel them;

more

more especially at this time, when I am threatened with new efforts to keep me out of the service of my country; I should establish the credit of the misrepresentations, by which I deem myself so highly injured. Some explanation on my part is therefore immediately requisite, to disappoint my enemies of the final accomplishment of their designs.

It is not, however, my intention to revive the consideration of the passed transactions relative to Admiral Keppel and myself, further than he and his friends shall compel me by their hostilities. I am well convinced, not only that very ill consequences have already arisen to the public service from the contest between that gentleman and me; but that new mischiefs will be generated, if the subject is resumed. Under this impression, I think it incumbent on me to make great sacrifices of my own private feelings, rather than administer the least pretence for any further discussion of the grievances, of which the honourable Admiral and I respectively complain. Therefore, on the present occasion, I shall avoid speaking to many points, in which my character is interested; and I shall keep within much narrower limits, than I should prescribe to myself, if I aimed at the full defence of my conduct towards the honourable Admiral who is opposed to me.

The friends of the honourable Admiral, in their invectives against me, seem to place their chief reliance on the sentence pronounced by his Court-martial. I

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mean that part of the sentence, which declares my charges malicious and ill-founded. This is the bitter spring, from which my enemies draw poison to impregnate their licentious declamations.

If the Admiral's friends were content with appealing to this sentence as a testimony of his innocence, I, on my part, for the sake of public tranquillity, would forbear all complaint and objections. But when the Admiral, or his friends, aiming at a further persecution of me, apply that sentence to fix upon me the stigma of being a false and malicious accuser, I cannot acquiesce. The injury is too gross to be patiently submitted to. As such, I feel, and will resist it.

Sir, I can make many important objections against the proceedings of the honourable Admiral's Court-martial; and so far as they affect me, I deny their authority. Should my enemies persevere in their threatened motion to disqualify me from the service of my country, they shall find me ready to lay before this House a full and pointed explanation of all the hardships and irregularities, by which I conceive both the public and myself to be aggrieved; and I will undertake to prove my objections from the Trial printed by authority of the Court, and the one published by authority of the Admiral himself. At present it would be premature to enter minutely into such a discussion, there being no motion before the Committee to warrant it. But after having heard the sentence of Mr. Keppel's Court-martial, so loudly
and

and indignantly pressed against me, I trust, that the Committee will indulge me with some present general observations upon it.

I might say of the sentence, that the part, which condemns me for malice, was *extrajudicial*, and therefore ought not to affect me; and, legally speaking, I should be justified. The Court was not constituted to try me, on my motives. The honourable Admiral alone was the subject of their jurisdiction. Whether he was innocent or guilty, was the only enquiry to which the Court was competent; and so the Court sometimes told me, when I put questions to the witness that related to my own conduct. But for the present I will not further urge the Court's incompetence. The complaint, which I shall now enforce, is for *their not hearing me*. As prosecutor, I had clearly a right to observe upon the evidence; I had a right to reply to the Admiral's defence. To observe upon the evidence and defence, after examining witnesses to support it, is the right of every complainant, either by himself or Counsel, in every cause, in every court. I say this of my own country; but should I extend the assertion to every other country in Europe, I should not run the risk of much contradiction or exception. To hear observations from one party only, is contrary to natural justice, contrary to the practice of all courts I have heard of. That both parties should be heard, is as essential to justice in courts-martial, as it is before other judicatures. The maxim of *audi alteram partem* is universal;

it is the golden rule, for the guidance of *all courts*. But, plain and obvious as this right of being heard is, I was opposed in it by the Honourable Admiral himself; and it was denied to me by his Court-martial. Admiral Keppel objected to my being heard *on the merits in any stage of the trial*, and the Court yielded to the objection throughout.

On the close of the evidence for the prosecution, I offered to address the Court, and tendered a paper for that purpose; but the Admiral instantly objected to my being heard, explaining himself to mean, that I had no right to make a speech on the merits in *any stage* of the cause; and the Court, without knowing what the paper contained, after some deliberation, resolved not to hear it. I then solicited to know, whether I should be at liberty to address the Court on the close of the evidence on each side. The Admiral repeated his objection to my being heard on the merits in any stage; and emphatically said, that he would *oppose it to the last minute*. If the Court had answered my question negatively, my intention was, to have protested against their proceedings, and declined any further attendance. But I was misled into a belief, that finally I was to be heard; for Admiral Montagu, one of the Court, declared, that when Admiral Keppel's witnesses had been examined, *he should be extremely glad to hear every thing the Prosecutor had to say*; and this declaration was not contradicted, or in any way disputed, by the rest of the Court.

Court. The fact, I now state, appears only in the Trial published by authority of Mr. Keppel the words which passed after the Court's resolution not to hear my paper, having been ordered to be expunged from the Judge-Advocate's minutes, though part of the matter expunged had been minuted by the Judge-Advocate at my particular requisition.

After the defence and the examination of the Admiral's witnesses, I again pressed the Court for a hearing, and claimed a right to reply to the Defence, and to observe upon the evidence; giving, as an additional reason, that the Defence was in great measure a recrimination of me the prosecutor. But I was again interrupted by the Admiral, who insisted that it was *unprecedented*; and I was again refused a hearing by the Court, notwithstanding Admiral Montagu's *promise* to hear every thing I should have to say.—Thus the trial closed with a sentence acquitting the accused, and condemning the accuser, after hearing the former, whenever he thought fit to address the Court; but without once hearing the latter, either in support of his charges, or in justification of himself.

Such are the *extraordinary* proceedings, on the authority of which I have been continually the subject of popular declamation both in and out of Parliament: such is the sentence, on the basis of which an Honourable Member of this House has, I am told, pledged himself

himself to impeach one of his Majesty's Ministers, and to give the final blow for my destruction.

But before he becomes an accuser, with such a sentence for his sanction, the Honourable Gentleman may find it convenient to deliberate on the difficulty of justifying such an irregular proceeding as I have described. If he undertakes the task, he will have many strange assertions to make, many embarrassing propositions to maintain; such as I cannot imagine any man, however confident, will presume to offer in this House.

Will the Honourable Gentleman say, that it is consistent with justice and impartiality to hear one party only?

Will he assert, that it is consonant to justice to hear every thing from the accused, and at the same time to refuse hearing any thing from the accuser?

Will he assert, that an accuser has no right to be heard on the merits in *any stage of a trial*?

Will he deny, that it is the practice of Parliament, and of all our Courts of Justice, to hear accusers and complainants of every kind, by themselves or their Counsel, on the merits?

Will he allow, that if this House should impeach any of the King's Ministers, it will be justifiable in the House of Lords to refuse a hearing to those appointed to conduct the impeachment? Or, will he say, that they would submit to be restrained to the examination of witnesses only?

Will

Will he deny, that, since the æra of the *Revolution*, the Twelve Judges of England have subscribed their names to a paper, which solemnly recognizes the right of the prosecutor, to observe on the evidence and reply to the defence in *treason*; or will he deny, that Lord Holt, the then Chief Justice of England, was one of those Judges?

Will he deny, that the volumes of State Trials prove a continual exercise of the same right, in crimes of every class and denomination; in those of the higher order, those of the middle order, and those of the lower one; as well in *felonies* and *misdemeanors*, as in *treasons*?

Will he deny, that the late Lord Chief Justice of the Common-Pleas, when Solicitor-General, exercised this right against a noble Lord now living; or that the present Chief Justice, of the same Court, apologized for not exercising it on the trial of the Dutchess of Kingston?

Will he deny, that, in Mr. Horne's case, the present Lord Chief Justice of England recognized the right of reply as too clear to bear argument, even though the accused, to avoid a reply, should decline offering a syllable of evidence; or will he deny, that Mr. Horne's defence was replied to by the present Lord Chancellor, who was then Attorney-General?

Will the Honourable Gentleman deny, that, in all complaints and accusations by individual Members of either House of Parliament, it is the constant practice to hear observations from, and to allow the reply to, the complainant; or will he deny, that a late Member of
this

this House exercised this right in the last Session of Parliament, on a very serious charge against the Noble Lord near me*?

Will he deny, that the Judge Advocate, or any other person prosecuting, has a right to be heard at land Courts-martial on the merits, when such prosecutor requires it?

Will he deny, that prosecutors, who appear and demand to be heard on the merits, are heard at naval Courts-martial, and say that it is *unprecedented*?

Will he deny, that the Captains, who accused Admiral Knowles, were heard in observation on the evidence, and in reply to his defence?

Will he deny, that Admiral Knowles was heard in observation on the evidence, and in reply to the defence of his Captains, on four several trials?

Can he name one instance of a prosecutor, who was refused to be heard by a naval Court-martial, except the instance of myself at the trial of Admiral Keppel; or, if he can find such, will he say, that it is conformable to established practice and approved precedents, and ought to be followed?

Will he assert, that it is just to condemn any man as a false and malicious accuser, without a trial or hearing of any kind; more especially in a case in which one part of the Defence was a recrimination of the accuser?

* Lord North.

Will

Will he deny, that I am intitled to the benefit of that chapter of *Magna Carta*, which declares, that *justice shall be denied to none*; that none shall be taken or imprisoned, none shall be outlawed, none shall be banished, none shall be destroyed, unless by the lawful judgment of his peers, or the law of the land?

Will he say, that it is not contrary to *Magna Carta*, contrary to *justice*, contrary to the law of the land, to condemn, to disqualify, to record me guilty, before I have been tried or heard?

Will he say, that it was right in Admiral Montagu to promise a hearing to me, and the Court to acquiesce in it, and afterwards for the same judges to refuse me a hearing? Or will he undertake to produce one other example of such a conduct from any court of this country on a solemn trial?

Will the honourable Gentleman assert, that, if he should be an accuser of any Minister, or any man in this House, it will be justifiable to refuse hearing a speech from him on the merits, in any stage of his accusation; or that he ought not to be heard on close of the evidence for the accused?

Will the honourable Gentleman risque having it recorded in the journals of this House, that, if he should ever be so unfortunate as to have a charge against him, whether for a malicious accusation or any other matter, it will be just to condemn and punish him without hearing one word from him in his exculpation; without suffering

tering that eloquence, by which he has so often attacked and defended others, to be once exerted in behalf of himself?

I cannot convince myself, that the Honourable Gentleman will risque his fame and popularity on such language and doctrine. But though he should be so transported by the rage of party, by zeal for the Admiral his friend, by hatred of me, or by any other incentives, as to make such a mockery of truth and justice; or even though his committee of safety should publish to the world their implicit assent to the position, that an Englishman, or any man, may be condemned to utter ruin without trial or being heard; I trust that they will not have the countenance of this Honourable Assembly. At least, I trust, that there will not here be found a majority of such determined bigots to the cause of the Honourable Admiral, and the party he is attached to.—If too the Honourable Gentleman should thus deeply pledge himself to establish a precedent of injustice, it is not impossible, but that he may live to suffer by his own invention. He is well read in the page of human life; he knows the strange vicissitudes to which it is liable; he is not ignorant, that none are exempt from a portion of it's bitterest calamities; he must feel, that the more elevated the station, the more exposed it is to the rude assault of winds and tempests. Lightning will blast and shiver the proud and lofty palace, whilst the low and humble cottage escapes unhurt. Let the Honourable Gentleman then, for a moment, explore the deep

abyss of future events ; and he will there see, that *even he* may be accused, that *even he* may be forced before the awful tribunal of justice. But should he be thus arraigned, how can he claim to plead in support of his own innocence ; or should he so claim, may not his Judges sternly pronounce this severe and tremendous sentence of retribution ?—*You are the unjust judge, who condemned your fellow-subject without trial or hearing.*—He strenuously urged you to listen to his exculpation, before you recorded him guilty : he solemnly warned you against establishing such a precedent of injustice.—But your heart was steeled against the tender feelings of humanity, your ear was deaf to the loud cry of justice ; and, under the pretence of public good, you made a sacrifice to an unbridled passion of private resentment.—Thus by his fate you promulged a law for punishing without trial ; a law for your own destruction.—*The law is most harsh and cruel.*—But you are its author ; you overwhelmed your adversary by enforcing it.—*Gothou, and by the same law perish likewise.*—*This is your sentence.*—Let it be sternized for the future instruction of mankind.—But henceforth let the law be repealed.—Your punishment alone will suffice to teach men, how to respect the equal course and order of justice.—Should the Honourable Gentleman defend Mr. Keppel's Court-martial for condemning me unheard, is it possible, that he can reflect on the affecting situation I have imagined for him, and not tremble ? Or can those rash persons, if such there be, who shall stoop to search for precedents to uphold

hold him in so unjust a conflict, who shall ransack the annals of injustice to sanctify such doctrine; can they, I say, after this notice, proceed in their office without fear of the consequences?—No; I think it impossible! Let them then retire in time; let them desist from the inglorious pursuit, before they are covered with shame and disgrace.

Sorry I am, that the occasion should extort from me such strong colouring, such impassioned language. But the Honourable Gentleman and his friends are not yet pledged to palliate or defend the condemnation of me without trial or hearing; and I wish, if they will not shrink from the task of being advocates for violated justice, to leave them without the least excuse for such a conduct.—I am the more sorry to speak thus strongly; because I feel for the Judges of the Honourable Admiral's Court-martial. When they reflect on the serious consequences from the dangerous example of condemning an officer unheard, I am sure, that they will be afflicted at one part of their proceedings. I do not on this occasion allude to their acquittal of the Honourable Admiral, or to the approbation they have expressed of his conduct; but I mean, that they will lament having refused me a hearing, and yet condemned me for malice. Thus much I say concerning them, lest the Gentlemen should suppose, that I impute to them a deliberate and intentional deviation from justice. Great as my sufferings have been from their imputation of malice to me, I really exculpate them in point of intention; and I will

do them the justice to believe, not only that the injury I complain of was not wilful, but that they will be most happy to see me fully relieved from its dire effects.

These observations on the proceedings of Admiral Kappel's Court-martial, I submit to the Committee, very much detract from the weight and authority of their sentence. However, I do not ask to impeach the sentence, considered as an acquittal of the Honourable Admiral. No, let him enjoy every benefit possible to be derived from an acquittal; let his friends perpetuate the memory of it by illuminations, by triumphal processions, by parliamentary congratulations, by offerings of boxes, by addresses, by statues, by columns and monuments, by inscriptions; let his day of acquittal be commemorated as an anniversary. But when the friends of the Honourable Admiral extend their views still further; when they declaim against me as convicted of a malicious accusation; when mobs are excited to destroy my person and property, to enter forcibly and pull down my dwelling-houses, and to insult my friends and servants; when there are in Parliament persons so lost to all sense of justice as to palliate such outrages and felonies, or rather almost to defend them; when the friends of the Admiral accuse me of criminal disobedience as an officer, and in the same breath use threats to deter me from a trial; when, during the pendency of my trial, they confederate to inflame my judges against me, and so to reach my life; when, notwithstanding

standing my acquittal, they still proclaim me a guilty person; when they state Mr. Keppel's acquittal as a condemnation of me; when they justify Mr. Keppel's judges for refusing to hear me, his prosecutor, and for condemning me as such unheard; and when, to complete the measure of injustice, they threaten to make the sentence by a Court, which neither would hear nor had power to try me, the ground for recording me as infamous by a Vote of Parliament: I say, Sir, when all these provocations occur, can it be expected, that I should tamely and passively submit myself to the injuries thus heaped upon me, rather than utter any thing to the disparagement of Mr. Keppel's Court-martial, or their proceedings? I am as zealous for the good of my Country, I am as ready to make sacrifices of my own personal convenience to it, as my enemies can be. But I cannot think it either for the honour or advantage of my Country, that any officer or man should acquiesce in such treatment. If an enquiry into the justice of the proceedings of Mr. Keppel's Court-martial should produce any public mischief; if thereby his acquittal becomes less splendid, less honourable; his friends, who force on the discussion, are responsible both to their Country and him; not I, who am ready to bury in oblivion past injuries, if the Honourable Admiral's friends shall abstain from new provocations.

It may perhaps be said in justification of Mr. Keppel's Court-martial, that there are instances of sentences by

other Courts-martial, acquitting the accused, and reprobating the accuser for making the charge. That there are such instances, I readily admit. Nay, though every thing beyond trying the accused is certainly extrajudicial, yet where the accuser has been heard in support of his charge, and fails grossly; or has declined to be heard, and admits that his charges are not proved, it may be excusable, under very aggravated circumstances, to censure the accuser, for the sake of more completely marking the injury done to the honour of the accused. But I call upon Mr. Keppel's friends, to name one example of such a stigma on an accuser, without allowing him to be heard in support of his charges, and in defence of himself for making them. Without such a hearing, how is it possible to form an adequate judgment of the conduct of the accuser, or of the grounds and motives on which he proceeds? Who can say, what new lights may arise, when a great mass of evidence is explained, digested, and commented upon? Besides, as I have already urged to the Committee, it cannot be fair and just, to hear the evidence observed upon and applied by one of two contending parties, without allowing the same benefit to the other. If that equal advantage had not been denied to me by the Honourable Admiral's Court-martial, who can pretend to say what would have been the consequence? My defence before the Court-martial upon me proves, that the re- crimination, on which the Honourable Admiral rested

part

part of his defence, was capable of being falsified; and though there was not so much evidence to this point before his Court-martial, as occurred afterwards, yet there was matter amply sufficient to have evinced my innocence in the most material allegations against me, if I had not been restrained from explaining myself to the Court. The evidence of Captain Marshall, commander of the repeating frigate, so warmly and deservedly applauded by Admiral Keppel, with the testimony of the Mate and Minuting Officer of the same frigate, without any thing more, if I had been allowed to make my comments on the signals those three witnesses swore to, would have effectually disproved the chief part of the recriminatory charge in Mr. Keppel's defence. If too, the Court had suffered itself to have been possessed of the key to so material a part of the case, who can pretend to say, that it would not have caused impressions favourable to me? What might have been the result, it would not become me to give my sentiments, further than saying, that I am confident it would have cleared me from the imputation of malice, even in the minds of those Members of that Court, who gave their consent to that part of the sentence, which was not unanimous as the acquittal was. I have still too respectable an opinion of the judgment and honor of those gentlemen, to believe that they would have entertained so injurious an opinion, if they had heard me.

So much I offer to the Committee, to protect myself against any argument from that part of the sentence of the Honourable Admiral's Court-martial, which condemns me for malice.

Now, Sir, I beg the indulgence of the Committee for a short time longer, in order that I may explain in what light I shall appear before the Committee, if the extraordinary and irregular condemnation of me for malice, annexed to the Honourable Admiral's acquittal, is laid aside.

If Admiral Keppel's case and mine are compared, independently of the words in the sentence which impute malice to me, the most eloquent of his friends will find it no easy task to discriminate between us, with the least shew of advantage to the Honourable Admiral. We have both been accusers; we have both been accused; we have both been tried; we have both been acquitted. In any one of these points, what can the Honourable Admiral's friends object to me, without detracting from his fame, from his merits, from his importance, at least in an equal degree?

They indignantly object as a reproach to me, that my charges were a recrimination.—But are there no circumstances under which a recrimination may be justified? Because recrimination is presumptively and at first a ground to suspect, that the accuser is influenced by bad and interested motives; is it therefore to be always concluded, that a recrimination cannot be true, cannot proceed

proceed on just and honourable grounds? If the person accused thinks, that the crime or fault imputed to him belongs to his accuser, is it inconsistent with honour to undertake proving it? If too the original accuser, preferring a secret, undermining, and indirect attack on his opponent's reputation, declines making his charge in a legal way, and so endeavours to disappoint the man he criminales of a trial; is not such a conduct a strong provocative to a well-founded recrimination? Is there no example of such recriminations in the naval service, and have they always been condemned? Did not Admiral Knowles's captains recriminate, on the ground of their conceiving, that he had attempted to shift his own faults upon them? Was not the Admiral tried, and censured, on this recrimination? Was not the conduct of his captains much approved of by their brother officers at the time? Will the officers of the navy concur in the opinion, that no provocations, no injuries from their commanders, shall justify a recrimination, however founded in truth?—Suppose, however, for a moment, that recrimination is ever wrong; suppose that there was no example of it before, how can the Honourable Admiral and his friends detest me for recrimination, without condemning him? Are they clear, that there has not been as much of recrimination on his part, as on mine? Are they certain, that he did not recriminate with circumstances far more unfavourable, than those which occurred in my case? My accusation of him

was

was made so as to put him upon his trial; I specified my charges; I risked being a prosecutor; I abstained from being a witness. But the Admiral accused me at first in dubious and obscure terms; and though on his own trial he avowed accusation, he never would consent to bring a charge against me. Thus when I was tried, he became a witness against me, and delivered his testimony in so narrative a way, and with so much freedom and copiousness of observation, as to discharge the offices both of accuser and witness, and so in substance to act in two characters; whilst in point of form and responsibility he appeared only in one.—Which then of the two accusations was the most manly, the most direct, the most open, and the most agreeable to law and justice? Which of the two accusations most participated of the quality of retribution; mine which followed a *secret* and *indirect* accusation, or his which followed an *avowed* and *direct* one?

The common notion, I am aware, is, that I made a charge against the Admiral to screen myself from a trial.—But nothing can be further from the real fact.—Before I made any charge against the Admiral, I gave him the fullest opportunity of first charging me. Nay, in effect, I publicly called upon him in this House to bring me to a trial; for when he intimated here, that he was disposed to overlook and hide my faults, I rejected the proffered favour as an insult, and I claimed

an accusation from him, if he thought me deserving of the least censure; observing, that hints and insinuations were worse and more mischievous than charges. Had the Admiral avowed accusation when he was thus urged to it, I could have had an immediate trial, without being exposed to the odium of first appearing as an accuser. But the Admiral would neither exculpate nor accuse me; knowing that the Admiralty would not grant me a trial without a charge of some kind or other; or that if one had been granted without any charge under the then circumstances, it would have been called a sham trial. By this manœuvre I was driven into the fatal alternative, either of becoming an accuser of a man too great to be questioned without the utmost hazard, or of submitting to the injurious imputation of being deemed the cause of our doing so little in the action, when, if there was blame, I thought that it belonged to him. Having made my charges against the Admiral in a legal way under this embarrassment, I again evinced my anxiety for a trial on myself. For this purpose I wrote to the Admiralty, and desired that the Admiral might be required to make his charge against me, and that I might be put upon my trial immediately after his was over. He was so required; but he still declined a legal accusation. Yet as his defence was a direct recrimination of me, immediately after the sentence acquitting him, I wrote once more to the Admiralty, to demand a trial on the ground of the charges appearing against me on the Admiral's defence.

defence. Upon this, the Admiralty once more called upon Mr. Keppel for an accusation. But notwithstanding this *third* requisition, founded upon his defence, he still refused to make his charges legally. However, he would not absolutely renounce his right, as I understand the words of his letter, but only disclaimed an intention to charge me; his last letter truly observing, that the law had fixed a period for bringing charges, which in fact was not then elapsed. Thus he made sure of bringing me to a trial in a manner the most advantageous to himself, the most disadvantageous to me. On the one hand, he had every reason to think, that when the proceedings of his Court-martial were considered by the Admiralty, his recriminating defence would force them to undertake the prosecution of me; in which case he was sure to be a witness against me, instead of being responsible as a prosecutor, and I was sure to be left without any specification of charges. On the other hand, by adverting to the time which the law allows for such accusations, he seemed to reserve to himself a right to prosecute, if, contrary to his expectation, the Admiralty should not direct a trial.—Consider these facts, and compare my conduct as an accuser, with the Admiral's. The result will be, that all the *art* and *policy* were on the side of the Admiral; all the *openness*, and, if we judge by events, all the *unguardedness*, were on mine. But I do not envy the Honourable Admiral such a superiority.

It

It has been urged against me, that I was too late in my accusation; and that if I had thought the Honourable Admiral guilty of misconduct, I ought to have avowed my sentiments immediately, and without waiting till he accused me.—I answer thus. From the beginning, the conduct of the Admiral was not adequate to my expectations. I thought, that the engagement of the 27th July was injudiciously conducted; that the manner of carrying us into action was disorderly; that there was too much neglect of manœuvres, too much contempt of the enemy, too much confidence at first; and too much awe of the enemy, too much distance from them, too much diffidence of ourselves afterwards. But my friendship and esteem for the Admiral, his previous services to his Country, his high name in the world; these moved me to a favourable construction: and thus influenced, I imputed the miscarriage of the day to error of judgment, to ill health, to ill advice, to ill fortune, to every thing devoid of that evident and positive criminality, which might force me to undertake the painful office of accusing one whom I then deemed my friend. As there was not room for praise, I did not bestow it; and as I then conceived, that the Admiral's failures might not be wilful, I both avoided *public accusation*, and most rigidly abstained from *secret detraction*. But new lights and new occurrences presented to my mind a very different view of the Admiral's conduct. When the discontents increased through the nation,

nation, in consequence of the reflection, that a superior fleet of England had, for a time, declined continuing to engage an inferior one of France, and permitted it to return into port, in the middle of summer, unpursued; the officers, relations, friends, and dependents of the Honourable Admiral thought fit to account for this new phenomenon at the expence of my reputation; and for that purpose some of them published to the world, that my defaults had prevented a second engagement. Being thus injuriously attacked, I both personally and by letter solicited the Honourable Admiral to give a check to such aspersions. But he refused to do this justice to my character; and on conversing with him and his First Captain, I found, that they not only countenanced the slanders against me, but added to their number, by refusing to acknowledge, either that on coming out of the action I instantly wore to return to the enemy, or that they had even once seen me on the proper tack for that purpose. This explanation from the Honourable Admiral and his First Captain excited both astonishment and suspicion. I was amazed at their denial of such uncontrovertible facts, and at the Admiral's adopting a language so inconsistent with the high commendation of me in his public letter; and I then saw, that there was a plot concerted to destroy my character without a trial, and so to make me chargeable for the Admiral's failures. My feelings on the occasion were the stronger; because I was conscious, that the chief
part

part of the battle had fallen to the share of me and my division; that I had set an example of forwardness to pursue our blow, by instantly returning upon the enemy, and continuing to stand towards them again; that though the last out of the engagement, I was advancing to be the first in the renewal of it; and that I should have had that honor, if the Admiral had not declined renewing the action, and taken his fleet in a direction from the enemy. Under these circumstances, it was natural, that I should scrutinize the Admiral's conduct more rigidly, and no longer see it with the partial eyes of a friend; and on such a view of the unhappy miscarriage, I at length imputed to real neglect, what I before had ascribed to causes which might be pardoned, more especially in consideration of former services, and such as at first did not seem to me to preclude the hopes of better management in case of again meeting the enemy. Indeed, if, in Mr. Keppel's place, there had been a man indifferent to me, one of whom I had not before formed a very high opinion, it is probable, that my mind would have shaped a different course; probably my first judgement of the matter might have been the same harsh one, as is conveyed by the charges against the Admiral.—But what apology can he make for the lateness of his accusation; he, who had the charge of the fleet, and the command in chief; he, in whom the nation reposed its confidence, not only for the discharge of his own duty,

but to see that those under him completely performed what they owed to the State? What apology can he make for first praising me by a public letter, and in equal degree with Sir Robert Harland, and afterwards accusing me for the same affair? Shall he be at liberty to retract his applause, and to substitute accusation for it? Shall he be allowed to say, that his *heart dictated censure, whilst his pen wrote praise*? And shall mere silence restrain me from accusation, or be imputed to me as insincerity and inconsistency?

As to the state of the proofs on the two trials, I purposely avoid all comparison; because that would be entering into the merits of them, which I think would at this time be improper.

If the Admiral's friends chuse to pursue the subject, and to contrast my trial and the terms of my acquittal with his, I do not fear the comparison.—His sentence, it is true, is more pompously expressed than mine; but when the incidents to the two trials are considered, it will be more than a counterbalance for the external brilliancy of his acquittal.—The Admiral had every advantage to favor him on his trial. He was aided by the influence of the most extensive family connexions; he was backed by the whole party in opposition to Government, the heads of which daily crowded the trial to countenance and protect him. He was not wholly unaided even by some of the professed friends of Administration. His judges throughout re-

fused

refused a hearing to me as prosecutor. Having announced myself an accuser, I, from motives of delicacy, declined to appear as a witness. Before the trial, Parliament altered the place of trial in his favor, to accommodate him, without so much as a solicitation of this distinction from himself; and a number of Admirals petitioned the King to throw a slur upon the accusation.—But I had no such advantages. Instead of them, I had the most trying difficulties to encounter: the prejudice from having been declared, by Mr. Keppel's judges, a malicious accuser: the prejudice from the inflamed and mad state of the multitude through the kingdom: the prejudice from having my accuser a witness: the prejudice from the votes of the two Houses of Parliament in favor of Mr. Keppel: the prejudice from the continual efforts of the party in opposition to Government against me, to deter me from having a trial: the prejudice from the efforts, nay from the menaces, of the same persons, to aggravate the difficulties of such a disadvantageous trial; whilst, from beginning to end, there was the most apparent passiveness on the part of those in Government and their friends: the prejudice from the want of a specific charge: the prejudice from the threats to my judges if they acquitted, with the prejudice from the applause promised if they condemned.—With such advantages on Mr. Keppel's part, acquittal became so easy to him, that, though there had been faults

faults the most censurable, condemnation was barely possible.—With such disadvantages on my side, it was even surprising, how innocence could escape the fiery trial.—Which acquittal then was most honourable, Admiral Keppel's, with every prejudice, every indulgence, every exertion, every advantage for him; or mine, with every prejudice, every obstacle, every hardship, every advantage, against me?

FINIS.



